IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 24042 of 2004

Between:

M. Krishna Veni, D/o. Maraiah,
0-3-291/10/A, Neat Auto Street, Vijanayanagar Colony, Hyderabad, Roll No. 0295-835

..... PETITIONER

AND

The Registrar, Osmania University, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly in the nature of writ of mandamus declaring the action of the respondent not following 0.5 rule in awarding Degree of B.E. (C.S.E) by considering representation is illegal, arbitrary violation of rules, regulations and Articles 14 and 21 of the Indian Constitution and consequently direct the respondents to apply 0.5 rule to the petitioner in awarding B.E(C.S.E) Degree as following the judgment of this Hon'ble court and pass such other order or orders.

Counsel for the Petitioner : MR. KOONA REDDY ANJI REDDY

Counsel for the Respondent: MR.DEEPAK BHATTACHARJEE

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.24042 OF 2004

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ORDER :

The writ petitioner studied the Engineering Course (B.E-CSE) from the academic year 1994-95 to the academic year 2002-03. Though she passed all the subjects of I, II and III years, she could not secure pass marks in two subjects of IV year namely Compiler Construction of the 1st semester and Multimedia System of the 2nd semester. The petitioner secured 24 out of 75 marks in the subject of Compiler Construction and secured 13 out of 75 marks in the subject of Multimedia Systems. It is not in dispute that the minimum pass percentage required to be secured is 40% i.e, 30 out of the maximum marks of 75. Thus, the petitioner fell short of 6 marks in the subject of Compiler Construction and 17 marks in the subject of Multimedia Systems i.e., total marks of 23 if both the subjects are put together.

The grievance of the petitioner is that though as per the Rules of the respondent University the candidates who failed in one or more papers can be awarded 0.5% grace marks, the respondent University failed to extend the said benefit to her. The petitioner claims that if the 0.5% grace marks are awarded, the two backlog papers will be cleared and consequently she will be entitled to the award of Degree. It is stated that she made a representation requesting to add 23 marks fell short in the two subjects by extending the benefit of 0.5% grace marks and the Principal of the College has forwarded the same in the month of November, 2000 itself. However the respondent University failed to take any further steps. Hence, this writ petition seeking a declaration that the action of the respondent University in not allotting 0.5% grace marks to the petitioner and not awarding B.E. Degree to her as arbitrary and illegal.

On behalf of the University, a counter-affidavit has been filed stating that as per the Rule providing for grace marks of 0.5%, the total aggregate marks of the semester examinations of II, III & IV years have to be taken together and the same procedure was being followed for old batches i.e., prior to 1997-98 as per the Rules in force. From the academic year 1997-98, the Rule stipulates that the division shall be awarded on the basis of the marks secured in all the years i.e., marks of I, II, III & IV years together. However, the petitioner joined the course prior to 1997-98 and therefore the I-year marks are not taken into consideration for application of 0.5% grace marks. The total aggregate of II, III & IV years (six semester examinations) put together comes to 4,200 and if 0.5% is worked out, the petitioner will be entitled to secure only 21 marks. In spite of providing her the grace marks of 0.5% which will be equivalent to 21 marks, the petitioner will not be in a position to pass the B.E. Degree Course as she requires 23 marks to complete the course. Since even if the grace marks are provided the petitioner will be short of two marks, the relief as prayed for in the writ petition cannot be granted.

I have heard the learned Counsel for both the parties and perused the material on record.

The relevant Rule of the respondent-University relating to award of grace marks of

0.5% as extracted in the counter-affidavit of the respondent, reads as under :

> *"If a candidate is failing in one or more number of papers of the final year / final semester, and any backlog papers in which the candidate has appeared along with or after the final year / final semester examination of the course conducted by the University, and is likely to become eligible for award of degree by addition of marks, grace marks upto a maximum of 0.5% (half per cent) of the total aggregate marks of the course may be added. This rule shall not be extended along with the existing rule of grace marks (maximum of 2) simultaneously."*

It is clear from the above Rule that the students who have failed in one or more number of papers of the final year or final semester and any backlog papers appeared by the candidate along with or after the final year or final semester examinations of the course is likely to become eligible for award of degree by addition of marks, in such cases grace marks may be added upto a maximum of 0.5% of the total aggregate marks of the course concerned. It is relevant to note that the expression used in the Rule is that ***grace marks upto a maximum of 0.5% (half per cent) of the total aggregate marks of the course*** may be added. When it is provided in the Rule in clear terms that a maximum of 0.5% of ***total aggregate marks of the course*** may be added, as rightly contended by the learned Counsel for the petitioner, there is absolutely no justification on the part of the respondent-University to take into consideration the aggregate marks of only the II, III & IV years. The Counter-affidavit filed by the respondent University is absolutely silent as to the rationale in following such procedure except stating that the said procedure was followed for old batches i.e., prior to 1997-98 as per Rules in force. As a matter of fact, in the counter-affidavit it is admitted that from the academic year 1997-98 the marks secured in all the years i.e., the aggregate marks of I, II, III & IV years are being taken together. If that be so, the action of the respondent University in holding that the petitioner is entitled for grace marks of only 21 on the basis of the aggregate marks of II, III & IV years cannot be sustained, the same being not in consonance with the Rule relating to grace marks.

Accordingly, the Writ Petition is disposed of with a direction to the respondent – University to consider the case of the petitioner for award of the grace marks upto a maximum of 0.5% of total aggregate marks of the course i.e, all the I, II, III & IV years

taken together and to pass appropriate orders within a period of four weeks from the date of receipt of this order. No costs.

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25th April, 2005.

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To

1. The Registrar, Osmania University, Hyderabad.

2. 2 CD copies